IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 361 OF 1998

1. Smt. Chandravati C. Naik
(deceased),

2. Shri Ramdas C. Naik,

3. Shri Shyam C. Naik,

4. Shri Srikant C. Naik,

5. Shri Audumbar C. Naik,

6. Shri Sakharam C. Naik,

7. Smt. Shantabai B. Naik,

8. Shri Arjun S. naik,

9. Shri Dashrath S. Naik,

10. Shri Vinayak S. Naik,

11. Shri Sripad S. Naik,

12. Shri Ankush S. Naik,

13. Shri Babi S. Naik,

All major, residents
of Bella Vista, Vaddo,
Sircaim, Bardez, Goa. ... Petitioners.

versus

1. The State of Goa,
through its Chief
Secretary, Secretariat,
Panaji, Goa.

2. The Special Land
Acquisition Officer
(North), Irrigation
Department, Mapusa,
Bardez, Goa. ... Respondents.

Mrs. A. A. Agni, Advocate for the Petitioners.

Mr. A. N. S. Nadkarni, Advocate General with Mr. G. Shirodkar, Additional Government Advocate for the State.

CORAM: F. I. REBELLO &
P. V. HARDAS, JJ.

DATED: 4TH JUNE, 2003.

ORAL JUDGMENT(PER F.I REBELLO, J.)

The Petitioners applied for a reference. That application has been rejected on the ground that it was beyond the period prescribed under the Land Acquisition Act, 1894. The sole contention raised on behalf of the Petitioners is that the time taken for getting a certified copy of the Award be excluded and if that time is excluded then in that event, the application filed by the Petitioners is within the period of time specified under the Land Acquisition Act, 1894. In that view of the matter, the relief sought for is to direct the Respondents to make a reference to the Court.

2. On the other hand, Mr. A. N. S. Nadkarni, Advocate General appearing on behalf of the Respondent No.1/State points out the Judgment of the Apex Court in the case of **Officer on Special Duty(Land Acquisition) and another** v. **Shah Manilal Chandulal and others** reported in (1996) 9 SCC 414 wherein the

Apex Court has held that the Collector has no power to condone the delay as it is not a Court. In that case what was in issue was Section 5. In the instant case, it is Section 12 which provides for exclusion of time.

3. Considering the arguments advanced, the question would be if Section 12 would be really applied on behalf of the Petitioners herein.

4. Mrs. A. A. Agni, learned Counsel appearing on behalf of the Petitioners no doubt had placed reliance on a Judgment of the Apex Court in **M/s. India House** v. **Kishan N.Lalwani** reported in 2003 AIR SCW 78. In that case, the issue was exclusion of time before a Court and it is in those circumstances the Court held that Section 12 would apply. In the instant case, limitation for applying for reference is provided by the special provisions of the Land Acquisition Act, 1894. Section 12 would not apply, unless the Act itself had so provided. There is no such provision. A bare perusal of Section 12 would show that it is to exclude time in a suit, appeal or application. The time is in terms of the Schedule to the Limitation Act. The provisions of Section 12 are not made applicable by the provisions of the Land Acquisition Act, 1894. The Judgment of the Apex Court in the case of **Officer on Special**

Duty(**Land Acquisition) and another)v. Shah Maninal Chandulal and others** would therefore squarely apply. There is, therefore, no merit in this Petition.

5. Rule discharged. No order as to costs.

F. I. REBELLO, J.

P. V. HARDAS,J.

RD.